



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 38

**Assembly Substitute
Amendment 1**

Memo published: June 23, 2003

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Assembly Substitute Amendment 1 prohibits a convicted felon from recovering damages from the following persons for personal injury or property damage incurred by the felon while committing, or as a result of committing, the felony:

1. A victim of that felony.
2. An individual other than a victim who assisted or attempted to assist in the prevention of the felony, who assisted or attempted to assist in the protection of the victim, or who assisted or attempted to assist in the apprehension or detention of the felon unless the individual who assisted or attempted to assist is convicted of a crime as a result of his or her assistance or attempted assistance.

The limitation under the substitute amendment on recovery of damages by a convicted felon does not apply to recovery of damages for death or personal injury resulting from a device used to provide security that is intended to or likely to cause great bodily harm or death.

Under the substitute amendment, any applicable statute of limitations for a civil action to recover damages for injury or death incurred by a perpetrator during the commission or as a result of the commission of a felony is tolled during the period of a criminal proceeding charging the perpetrator with a felony. Similarly, any applicable statute of limitations for an action by a convicted felon to recover damages from an individual who assisted or attempted to assist in the prevention of the act, the protection of the victim, or the apprehension or detention of the felon, is tolled during the period of a criminal proceeding against the individual charging that individual with a crime as a result of his or her assistance or attempted assistance.

The substitute amendment expressly authorizes a court to stay a civil action covered by the proposal until the final disposition of a criminal proceeding that relates to the ability to recover damages under the proposal.

The substitute amendment revises the original proposal in the following general ways:

1. Narrows the prohibition on recovery by convicted felons of damages incurred while committing or as a result of committing a felony to apply to actions against victims and actions against individuals who assist or attempt to assist in the prevention of the felony, the protection of the victim, or the apprehension or the detention of the felon. In the original proposal, a convicted felon is prohibited from recovering damages from any person for injury incurred by the felon while committing, or as a result of committing, the felony.
2. Clarifies that the proposal applies to felonies under both state and federal law.
3. Adds the language on tolling statutes of limitations.
4. Adds the language expressly authorizing a court to stay a civil action covered by the proposal during the period of a related criminal proceeding.

Legislative History

Assembly Substitute Amendment 1 was introduced by the Assembly Committee on Judiciary. The committee recommended adoption of the substitute amendment by a vote of Ayes, 7; Noes, 0, and recommended concurrence in the proposal, as amended, by the same vote on June 19, 2003.

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